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PALESTINE / ISRAEL

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| CASE No. PAL/16 - OMAR MATAR
(aka OMAR ABDEL RAZEQ) | CASE No. PAL/35 - MOHAMED ISMAIL AL-TAL |
| CASE No. PAL/17 - NAYEF AL-ROJOUR | CASE No. PAL/36 - FADEL SALEH HAMDAN |
| CASE No. PAL/18 - YASER MANSOOR | CASE No. PAL/37 - ALI SALEEM ROMANIEN |
| CASE No. PAL/19 - HUSNY AL-BURIENY | CASE No. PAL/38 - SAMEER SAFEH AL-KADI |
| CASE No. PAL/20 - FAT'HY QARA'WI | CASE No. PAL/39 - REYAD ALI EMLEH |
| CASE No. PAL/21 - IMAD NAWFAL | CASE No. PAL/41 - REYAD MAHMOUD RADAD |
| CASE No. PAL/22 - ANWAR ZBOUN | CASE No. PAL/42 - KALI MUSA RBAE KHALIL |
| CASE No. PAL/23 - MAHMOUD AL-KHATEEB | CASE No. PAL/43 - M. MOTLAK ABU JHEASHEH |
| CASE No. PAL/24 - ABDULJABER AL-FUQAHA | CASE No. PAL/44 - WAEL MOHAMED ABDEL RUMAN |
| CASE No. PAL/25 - KHALED YAHYA | CASE No. PAL/45 - MAHMOUD IBRAHIM MOSLEH |
| CASE No. PAL/26 - KHALED SULAIMAN | CASE No. PAL/46 - AHMED ABDEL AZIZ MUBARAK |
| CASE No. PAL/27 - NASER ABDULJAWAD | CASE No. PAL/47 - HATEM QFEISHEH |
| CASE No. PAL/28 - MUHAMMAD ABU-TEIR | CASE No. PAL/48 - MAHMOUD AL-RAMAHI |
| CASE No. PAL/29 - AHMAD 'ATTOUN | CASE No. PAL/49 - ABDERRAHMAN ZAIDAN |
| CASE No. PAL/30 - MUHAMMAD TOTAH | CASE No. PAL/51 - AYMAN DARAGHMEH |
| CASE No. PAL/31 - IBRAHIM SAED ABU SALEM | CASE No. PAL/52 - NIZAR RAMADAN |
| CASE No. PAL/32 - BASEM AHMED ZAARER | CASE No. PAL/53 - AZZAM SALHAB |
| CASE No. PAL/33 - IBRAHIM MOHAMED DAHBOOR | CASE No. PAL/54 - KHALED TAFISH |
| CASE No. PAL/34 - MOHAMED MAHER BADER | |

***Resolution adopted unanimously by the IPU Governing Council at its 184th session
(Addis Ababa, 10 April 2009)***

The Governing Council of the Inter-Parliamentary Union,

Referring to the case of the above-mentioned parliamentarians, all of whom were elected to the Palestinian Legislative Council (PLC) in January 2006, as outlined in the report of the Committee on the Human Rights of Parliamentarians (CL/184/12(b)-R.1), and to the resolution adopted at its 183rd session (October 2008),

Referring also to the study produced by the Israeli non-governmental organization *Yesh Din* (Volunteers for Human Rights) on the implementation of due process rights in Israeli military courts in the West Bank, entitled "Backyard Proceedings", which reveals the absence of due process rights in those courts, and to the study of B'Tselem - the Israeli Information Center for Human Rights in the Occupied Territories - entitled "Barred from Contact" on violations of the right to visit Palestinians held in Israeli prisons, published in September 2006,

Taking into account the information gathered by the Committee's secretary during a fact-finding mission to Ramallah,

Recalling that the parliamentarians concerned, elected on the Change and Reform list in the January 2006 PLC elections, were arrested on or after 29 June 2006 in the occupied West Bank and subsequently charged with standing in the election on the Change and Reform list, which in the view of the Israeli prosecution authorities is Hamas, and hence being a member of a terrorist organization, holding a position on behalf of Hamas by assuming membership in parliament on behalf of Hamas and providing services to a terrorist organization by assuming membership in parliamentary committees and supporting an illegal organization; that not a single charge relates to any violent activity and no accusation whatsoever was advanced in that respect; *recalling also* that the arrests came in the context of Israeli military operations

in the Gaza Strip to obtain the release of Gilad Shalit, an Israeli soldier kidnapped on 25 June 2006 in a cross-border attack on Israeli military installations which the Israeli Government blames on Hamas and the Palestinian Authority,

Considering that the cases of the parliamentarians concerned were heard separately by the Ofer and Salem Israeli military courts and that most of them have been sentenced to around 40 months' imprisonment, two parliamentarians were found not guilty, but taken into administrative detention; *noting* more particularly the following:

- The court did not accept the preliminary argument regarding its competence to hear these cases;
- The most important substantive defence argument was that the Israeli authorities knew and had accepted that Hamas was standing in the election; they had negotiated arrangements, especially in regard to the electoral process in East Jerusalem; Change and Reform candidates were summoned to the Russian compound, the main Israeli interrogation centre, and told that they were forbidden to campaign in East Jerusalem; never had there been any decision to arrest them; in one of the cases, the defence attempted to call as a witness the Head of Shabac and the adviser to the Prime Minister, Dov Weissglass, who had been responsible for negotiations with the Palestinian Authority regarding the elections, precisely for the purpose of showing Israel's knowledge and approval of Hamas's participation in the elections; while the prosecution had objected to this request by the defence, the military court judge had approved it; however, on the day before they were due to give evidence, a military order from the Head of the Army stated that any information about relations between Israel, the European Union, the United States of America and the Palestinian Authority was classified, including discussions concerning the elections and that such evidence would be damaging to the security of the State of Israel, for which reason the witnesses in question would have been unable to respond to any question;
- In determining their judgment, the courts finally relied on what they termed "expert report" by a Shin Beit member (called Ivory during the proceedings) who testified that Change and Reform was Hamas; virtually none of the appeals succeeded; on the contrary, sentences were increased and often doubled; according to one of the lawyers, the courts sometimes give 24- to 30-month prison sentences for military action, but the sentence was double for the PLC members despite the lesser charge; clearly, the intention was to keep them in prison for the rest of their parliamentary term,

Noting the following information provided on individual cases:

- **Mr. Wael Mohamed Abdel Ruman** (PAL/44): the first instance court accepted the defence argument that not every candidate of the Change and Reform list was a member of Hamas and therefore acquitted him of the charge of membership of a terrorist organization, but found him guilty of having accepted a senior position in and carried out activities on behalf of an organization which he knew to be a terrorist organization, sentencing him to 23 months in prison, 12 months' suspended imprisonment and a fine; however, the appeal court accepted the prosecution's arguments and found Mr. Wael guilty of membership of Hamas and increased the sentence to five years' imprisonment, of which one and a half years are suspended;
- **Sameer Safeh Al-Kadi** (PAL/38) was sentenced to 28 months at first instance and 42 months on appeal. He is a medical doctor and director of the biggest hospital in Hebron. He entered the Change and Reform list because as a medical doctor he wanted to help. One of the lawyers said that being a well-known and popular person made matters even worse, as the Israeli courts considered that their "guilt" was even greater because they placed their repute in the service of a terrorist organization;
- **Abduljaber Al-Fuqahaa** (PAL/24) was found not guilty because the prosecution was unable to prove that he had been elected on the Change and Reform list. However, he was placed in administrative detention on 1 January 2009;
- **Basem Ahmed Zaarer** (PAL/ 32) was found not guilty and released, but was rearrested on 1 January 2009;
- **Abderrahman Zaidan** (PAL/49) was arrested in November 2006 and released on bail after a month without having been accused of anything. He was rearrested in May 2007, a few days after returning from the IPU Assembly in Bali, and placed in administrative detention until December 2007, when an indictment was filed accusing him of being a member of the Change and Reform list and he was declared arrested in this case. After several months and following pleadings of the defence counsel, the court released Mr. Zaidan on bail, but he was immediately taken into administrative detention. Finally, a plea bargain was reached whereby

he would plead guilty and be imprisoned for 22 months, account being taken of the period he had already spent in administrative detention, and the prosecution promised that, upon his release, he would not again be taken into administrative detention. He was released on 2 March 2009. Mr. Zaidan, a former Minister for Public Works and Housing, decided to stand in elections because he wanted to fight corruption in all aspects of public administration and to change the "one colour playground". According to him, there was a need for another point of view and this is why Change and Reform was created;

- **Omar Matar** (Omar Abdel Razeq; PAL/16), former Finance Minister, was arrested in December 2005 and released in March 2006. During his detention, he was interrogated and confessed that he was participating in the Change and Reform list and would stand in the elections on that list. Although he confessed, he was accused not on that but on other grounds and was released on bail by the court. On 29 June 2006, he was rearrested and, on the basis of his earlier confession, accused of having stood in the election on that list. In August 2008, after almost 25 months, he was found guilty and sentenced to 26 months' imprisonment. According to that verdict, he was to be released the same day and was indeed released. The next day, however, the prosecutor filed an appeal against his release, stating that because of a mistake (the court should have been asked to delay the release to allow them time to appeal) they had not asked for Mr. Matar to be kept in detention. At the hearing of the appeal, three weeks later, the court decided not to rearrest him and instead to post bail. The defence also appealed against the guilty verdict, arguing in particular that the court had not discussed the question of double jeopardy, and that accusing him now of standing on the Change and Reform list when the prosecution had not done so earlier when he had confessed to that, constituted misuse of authority. While the prosecution intended to ask that he be returned to prison for three and a half years, he finally negotiated with the defence and it was agreed that the defence would withdraw its appeal and plead that Mr. Matar not be sent back to prison while the prosecution would ask for 10 months' imprisonment. Finally, the court returned him to prison for five months. Mr. Matar should be released by the end of April 2009;
- **Reyad Mahmoud Radad** (PAL/41) was elected on the majority list in Tulkarem while in prison; he was released after the election, rearrested and sentenced to 24 months' imprisonment. He was unable to participate in any PLC session;
- **Fat'hy Qara'wi** (PAL/20) was elected while in prison. He was released, then rearrested and sentenced to 40 months' imprisonment (including five months of administrative detention);
- **Yaser Mansoor** (PAL/18), **Imad Nawfal** /PAL/21) and **Husny Al-Burieny** (PAL/19) were sentenced to 40 months' imprisonment;
- **Naser Abduljawad** (PAL/27) was sentenced to 42 months' imprisonment,

Considering that in the West Bank administrative detention is authorized under Military Order 1226, which empowers the military commanders in the area to detain an individual for up to six months if they have "reasonable grounds to presume that the security of the area or public security require detention"; the Order neither defines the terms "security of the area" and "public security" nor stipulates a maximum cumulative period of administrative detention. It thus allows indefinite arbitrary detention; charges against prisoners, including the parliamentarians in question, are usually those of being a "security threat", but the area and nature of the threat are not specified and evidence is not disclosed; although administrative detainees have the right to appeal, this is somewhat farcical as the detainee and his lawyers lack access to the information on which the orders are based; they are therefore unable to present a meaningful defence,

Noting the following with regard to visiting rights: family members need permits, which can be restricted and cancelled for various reasons, especially security-related ones; in many cases, wives of prisoners are not authorized to meet their husbands; this was for example the case of Mr. Mahmoud Al-Ramahi, former PLC Secretary General (released on 31 March 2009); under the normal visiting procedure, if a permit is given by the Israeli authorities, the permit holder can visit the prisoner once every two weeks for a period of 45 minutes; prisoners are separated from their visitors by a glass partition and conversations are by means of a telephone; permits are usually issued for a period of three months and need to be renewed; food is very bad and prisoners have to buy it in prison shops, and medical care is often delayed,

Considering that, in late March 2009, after the failure of the negotiations regarding the release of Gilad Shalit, Israel arrested or rearrested Palestinians, including four Change and Reform parliamentarians, namely Azzam Salhab, Ayman Daraghme, Nizar Ramadan and Khaled Tafish, who had all been released; moreover, the Israeli Prison Service decided to impose additional restrictions on Palestinian

political prisoners held in Israeli prisons, such as denying them family visits and not letting them watch television or read newspapers, reducing the time allowed in the open and restricting access to prison shops,

Recalling that on 30 June 2006 the Israeli Interior Minister revoked the East Jerusalem residence permits of Mr. Muhammad Abu-Teir, Mr. Ahmad Attoun and Mr. Muhammad Totah, on account of "breach of trust" owing to membership in a foreign parliament; they appealed against that decision in the Israeli Supreme Court; on 17 September 2008, the Supreme Court, ruling on the petition of Mr. Muhammad Abu-Teir, Mr. Ahmad Attoun and Mr. Muhammad Totah against the revocation of their East Jerusalem permanent residence status, decided to give them the opportunity to submit applications to the Israeli Minister of the Interior to reinstate their residence status and asked both parties to inform it of developments that would occur in the case within 60 days, after which it would decide how to proceed with the case,

1. *Notes* that the judgments handed down on the parliamentarians concerned confirm that the arrest and detention of the members of parliament concerned is quite unrelated to any criminal activity on their part but linked to their election on the Change and Reform list in a free and fair election recognized as such by the international community;
2. *Affirms* that there can be no doubt that Israel was aware of and accepted the participation of Hamas in the election, and *considers* therefore the arrest, detention and prosecution of the parliamentarians concerned to be politically motivated and hence arbitrary, and *calls on* the Israeli authorities to release them forthwith;
3. *Considers* that the rearrest of four Change and Reform parliamentarians following the failure of the negotiations regarding the release of Gilad Shalit and the simultaneous restriction of the rights of political prisoners suggests that Israel is in fact holding the PLC members concerned as hostages;
4. *Is appalled* at the fact that PLC members, like any other Palestinian, can be taken into administrative detention at any time, and be held for indefinite periods without a charge, being unable to defend themselves since the charge and evidence is not disclosed; *considers* that it renders judicial proceedings farcical since people can be arrested upon their acquittal or after having served their prison sentences, as has indeed happened in some of the cases in question; *recalls* that administrative detention is strictly forbidden under the international human rights norms to which Israel has subscribed, and *calls on* Israel to abrogate administrative detention forthwith;
5. *Deplores* the extremely limited family visiting rights enjoyed by Palestinian prisoners, including the PLC members concerned and, more particularly, the arbitrariness of decisions authorizing or denying visits; *recalls* that Article 37 of the United Nations Standard Minimum Rules for the Treatment of Prisoners stipulates that "prisoners shall be allowed to communicate with their family and reputable friends at regular intervals, both by correspondence and by receiving visits"; *calls on* Israel to conform to these Rules;
6. *Wishes to ascertain*, lastly, in the light of the Supreme Court decision regarding Mr. Muhammad Abu-Teir, Mr. Ahmad Attoun and Mr. Muhammad Totah, whether in the meantime their East Jerusalem residence permits have been restored to them;
7. *Requests* the Committee to continue examining this case and report to it at its next session, to be held on the occasion of the 121st Assembly of the IPU (October 2009).